

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
HENRY MOY,

Plaintiff,

-against-

TARGET CORPORATION,

Defendant(s).

-----X
Defendant, TARGET CORPORATION, by its attorneys, FISHMAN McINTYRE
LEVINE SAMANSKY P.C., respectfully petition the United States District Court, Southern
District of New York, as follows:

1. This case was originally commenced on or about August 24, 2020 in the Supreme Court of the State of New York, County of Bronx. The suit is identified in the Supreme Court as "Henry Moy v. Target Corporation", Index No. **29265/2020**. A true copy of plaintiff's Summons and Verified Complaint is cumulatively annexed hereto as **Exhibit A**.

2. Defendant, Target Corporation ("Target") first received notice of the suit when service was effectuated via Secretary of State on or about September 8, 2020. (See **Exhibit B** hereto). The grounds for removal are based on the original jurisdiction of this Court under 28 U.S.C. § 1332, which allows this Court to hear matters based on diversity of citizenship of the parties.

3. In plaintiff's Complaint, plaintiff does not specify a monetary amount of damages claimed. Rather, plaintiff claims damages of a non-monetary amount as a result of allegedly sustaining "serious injuries and to have suffered pain, shock and mental anguish; that these injuries and their effects will be permanent, and; as a result of said injuries, plaintiff has been caused to incur and will continue to incur expenses for medical care and attention, and; as a

Civil Action

Case No.:

21-3888

NOTICE OF REMOVAL

further result, plaintiff was and will continue to be rendered unable to perform plaintiff's normal activities and duties and has sustained a resultant loss therefrom...". See Exhibit A, paragraph 17.

4. By way of demand for damages dated April 28, 2021, plaintiff demands damages in the amount of \$500,000.00. (See **Exhibit C** hereto).

5. Based upon the foregoing, there can be no doubt that the amount in controversy herein exceeds \$75,000.00, exclusive of interest and costs.

6. Plaintiff is a resident of the State of New York, County of Bronx (see Exhibit A hereto, plaintiff's summons).

7. On or about October 13, 2020, this office served a request to admit upon plaintiff's counsel. A true copy of same is annexed hereto as **Exhibit D**. In that request to admit, defendant sought to have plaintiff admit that at that the time of the cause of action which gives rise to this action, the plaintiff was a citizen of the State of New York. In other words, for plaintiff to admit that on March 12, 2020, plaintiff was a citizen of the State of New York.

8. Plaintiff never responded or objected to or moved with respect to the request to admit. As such, per the CPLR such notice to admit, this Notice of Removal is made within 30 days upon receipt of a request to it is deemed admitted. Accordingly, plaintiff is deemed to be a citizen of the State of New York as of the time of the within cause of action arose.

9. Target is a corporation, incorporated in the state of Minnesota. Moreover, Target has its principal place of business in Minneapolis, Minnesota. (See **Exhibit E** hereto).

10. Based upon the foregoing, diversity of citizenship exists. Plaintiff is a citizen of the State of New York. On the other hand, Target is a foreign business corporation, incorporated in and having its principal place of business in Minnesota. Therefore, this action is between a

citizen of the State of New York (plaintiff) and a corporation of a state other than New York, the defendant, Target Corporation, on the other hand.

11. Written notice of the filing of this Notice of Removal has been given to all parties in accordance with 28 U.S.C. §1446(d), as evidenced in the annexed Certificate of Service.

12. Promptly after filing this Notice with the Court and the assignment of a civil docket number, a copy of this Notice will be filed with the Supreme Court of the State of New York, County of Bronx, in accordance with 28 U.S.C. §1446(d).

WHEREFORE Petitioner, Target Corporation, defendant in the action described herein now pending the Supreme Court of the State of New York, County of Bronx, under Index No. **29265/2020**, prays that this action be removed therefrom to this Honorable Court.

Dated: New York, New York
April 30, 2021

Yours etc.,



MITCHELL B. LEVINE
FISHMAN MCINTYRE LEVINE
SAMANSKY P.C.
Attorney for Defendant
TARGET CORPORATION
Office & P.O. Address
521 Fifth Avenue, 17th Floor
New York, New York 10175
212-461-7190
Our File No.: TARN-178-ML

TO: Marc H. Miner, Esq.
ZALMAN SCHNURMAN & MINER, P.C.
1430 Broadway, Suite 1802
New York New York 10018
212-668-0059
Your File No.: 2249-S/F-2020
Attorney for Plaintiff